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SIPDIS

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STATE FOR WHA/CAR

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SUBJECT: GOH OPEN TO RENEWED CRIMINAL TRANSFERS?

¶1. (SBU) Summary. Ambassador, accompanied by Santo Domingo-resident LEGATT and ALEGATT and Consul General, met with Justice Minister Rene Magloire and State Secretary Eucher-Luc Joseph on November 7 to discuss resumption of the transfer of Haitian criminal suspects to the United States for prosecution. Such transfers had been frequent during the tenancy of the IGOH and had even occurred during the Aristide administration, but have been frozen since the new cabinet took office. The meeting did not yield tangible changes, but did achieve an understanding that the issue merited further consideration. End summary.

¶2. (SBU) Following a request from LEGATT Santo Domingo concerning a known Haitian under indictment for heroin trafficking in the U.S., the Ambassador asked for a meeting with Justice Minister Rene Magloire to discuss the transfer of suspects for prosecution in the U.S. The meeting occurred on November 7 and included LAGATT and ALEGATT and the Consul General on the U.S. side and State Secretary for Public Security Eucher-Luc Joseph on the Haitian side.

¶3. (SBU) Transfers of suspects, usually involving drug traffickers and kidnappers, were a relatively common occurrence during the tenure of the IGOH and actually date back to the Aristide years. Subsequent to the installation of the Preval cabinet, however, these transfers have ceased, leaving those thought to have committed crimes in violation of both U.S. and Haitian law free to negotiate their fate solely within the admittedly corrupt Haitian judicial system.

¶4. (SBU) The Ambassador presented Minister Magloire with a list of five persons for whom the FBI was seeking assent for transfer to the U.S. for eventual prosecution. One of the five was wanted only for a U.S. violation (murder), another was a naturalized U.S. citizen involved in the illicit drug trade, another a kidnapper of American citizen(s), and the last two Haitian-based drug merchants. The Minister readily agreed that the U.S. citizen could be deported for prosecution if he could be located, but asked for specific case information prior to initiating any action.

¶5. (SBU) When the discussion turned to the Haitian national suspects, the Minister immediately fell back on Article 41 of the Haitian Constitution, which forbids the quote deportation unquote of Haitian citizens to a foreign jurisdiction under any circumstances. He suggested that the U.S. assist in setting up a task force composed of special prosecutors and judges to assume jurisdiction of cass of mutual interest. The Ambassador, while not dismissing this option out of hand, pointed out that the creation of such a modality could only be viewed as a long-term solution and that we were seeing an immediate tool to address severe and destabilizing crimes such as drug trafficking and kidnapping, that could be

employed outside any formal extradition process.

¶6. (SBU) When it was pointed out to the Minister that, aside from the master suspect, the other wanted persons could be reasonably assumed to have perpetrated far more havoc on Haitian individuals and the Haitian State than they were thought to have perpetrated on U.S. persons, he warmed visibly to the notion of finding an alternate path to sending suspects subject to federal prosecution to the U.S. for indictment and trial and suggested that this could be possible under the rubric of &judicial cooperation.<sup>8</sup>

¶7. (SBU) Comment. While the meeting ended without any agreement beyond a willingness to continue to discuss the issue, it marks the first time the new government has displayed anything other than intransigence on this subject. To date, we have been able to refer more than a dozen drug trafficking suspects and nine kidnappers to federal court for trial and conviction. Most of these would have escaped justice had they been allowed to stay in Haiti. If we are able to attain GOH consent to resume the previous practice, we will have restored a very effective method of disrupting both drug trafficking and the kidnapping of American citizens. End comment.

SANDERSON